

STANDARDS COMMITTEE

CODE OF CONDUCT INVESTIGATION, PRE-HEARING AND HEARING PROCEDURES

19th June 2008

Report of the Monitoring Officer

PURPOSE OF REPORT

To enable the Committee to consider investigation, pre-hearing and hearing procedures to apply where the Assessment Sub-Committee has referred a complaint of alleged breach of the Code of Conduct for investigation.

This report is public

RECOMMENDATIONS

- (1) That the Committee approve the draft Investigation, Pre-hearing and Hearing Procedures appended to the report, and in so doing determine in particular the arrangements for consideration by the Standards Committee of reports referred by the Monitoring Officer following investigation locally or by an Ethical Standards Officer.

1.0 Introduction

- 1.1 The Standards Committee has previously approved pre-hearing and hearing procedures based on guidance issued by the Standards Board. However, these procedures required updating in the light of the Standards Committee (England) (Regulations) 2008, and the Monitoring Officer has therefore prepared new investigation, pre-hearing and hearing procedures, based on the Committee's existing practice, but updated to comply with the new Regulations.

2.0 Proposal Details

- 2.1 The new draft procedures are appended to the report for consideration by the Committee.
- 2.2 There is, however, one particular issue on which the Committee's views are sought, and where options have been included in the draft Investigation and Pre-hearing procedures.
- 2.3 Regulation 17 of the 2008 Regulations provides that where a Monitoring Officer refers a report to the Standards Committee under Regulation 14 or 15 (that is,

following investigation locally or by an Ethical Standards Officer), the Standards Committee shall convene to consider the report and make one of the following findings:

- That it accepts the Monitoring Officer's finding of no failure to comply with the Code,
- That the matter should be considered at a hearing of the Standards Committee, or
- That the matter should be referred to the Adjudication Panel for determination.

2.4 Regulation 6 provides that the Standards Committee may appoint sub-committees to deal with its functions under Regulation 17, and it is therefore necessary to consider whether the decision to accept the Monitoring Officer's finding, or to hold a hearing, or to refer the matter to the Adjudication Panel should be taken by the full Committee or by a Sub-Committee.

2.5 In order to avoid any possible future conflict of interest, it would seem preferable for this role to be undertaken by a Sub-Committee rather than the full Committee. A number of authorities, including Birmingham City Council, Carlisle City Council and South Lakeland District Council have indicated that they will be re-convening the Assessment Sub-Committee that originally referred the complaint, and asking it to consider the Monitoring Officer's report in accordance with Regulation 17. This would appear to be a sensible approach, as the establishment of a different sub-committee to fulfil this role would run the risk that further members might be conflicted out of participating in the Hearing Sub-Committee. However, it would be important to note that in fulfilling this role, the Assessment Sub-Committee would be subject to ordinary access to information rules, and it might be appropriate to refer to it as the Assessment (Regulation 17) Sub-Committee when it is undertaking this function, to distinguish from its preliminary assessment function.

2.6 Other options would be for the full Committee to make the decision, or for it to establish a different Sub-Committee to make the decision, but the Monitoring Officer would recommend using the Assessment Sub-Committee.

2.7 With regard to the Hearings Sub-Committee, the proposals were discussed in principle at the Committee's last meeting, and the draft procedures assume a sub-committee of five, which was the preference expressed by Members.

3.0 Consultation

3.1 The Monitoring Officer has sought the views of other Monitoring Officers in Lancashire and Cumbria, and through the Association of Council Secretaries and Solicitors, to ensure that this Council's practice is consistent with that of other authorities.

4.0 Options

4.1 It is necessary for the Committee to have in place investigation, pre-hearing and hearing procedures. The options open to the Committee are to approve the draft procedures appended to this report, with or without further amendments. The options for dealing with Regulation 17 are set out in the main body of the report.

5.0 Conclusion

5.1 The Committee's views are sought.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

None arising from this report.

FINANCIAL IMPLICATIONS

There are no financial implications as a result of this report.

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has been consulted and has no further comments to add.

LEGAL IMPLICATIONS

Legal Services have been consulted and have no further comments.

MONITORING OFFICER'S COMMENTS

The report has been prepared by the Monitoring Officer in her role as adviser to the Standards Committee.

BACKGROUND PAPERS

None

Contact Officer: Mrs S. Taylor

Telephone: 01524 582025

E-mail: STaylor@lancaster.gov.uk

Ref: ST